HON'BLE MR JUSTICE A. GOPAL REDDY

WRIT PETITION NO.2709 OF 2005

DATE:04.04.2006

Between:

N. Veeraswamy

..... PETITIONER

AND

The District Cooperative Officer,
Prakasam District, Ongole, &
Two others.

.....RESPONDENTS

HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.2709 OF 2005

ORDER:

The affidavit filed in support of the writ petition is bereft of any particulars and it is not explained how a writ against the third respondent-Society is maintainable by merely impleading respondents 1 and 2 as party respondents to the writ petition without claiming any relief against them. Except stating that the third respondent-Society advanced a long-term loan of Rs.2.00 lakhs for purchasing a tractor and trailer in the year 2001 repayable in nine yearly installments of Rs.60,000/-, no particulars are mentioned in the affidavit about the date and month of sanction of loan by the third respondent-society; the date of commencement of installments; duration of the amount payable; and the amount of monthly installments. It is stated that the petitioner repaid the installments up to 2002 and committed default in paying the installments from 2003 onwards due to the prevailing drought situation in the area. It is alleged that the third respondent-Society without obtaining any award or filing any execution petition, took the possession of the tractor and trailer without giving any notice to the petitioner and the same is arbitrary and illegal.

Heard the learned counsel for the petitioner, learned Government Pleader for Cooperation for respondents 1 and 2 and learned counsel for the third respondent. Perused the material on record.

This Court, on 18.2.2005 while ordering notice before admission, directed the respondents to release the tractor and trailer on condition of petitioner depositing Rs.25,000/-. In response to the notice, the third respondent-Society filed a counter affidavit raising a preliminary objection that the writ petition as such is not maintainable against it and the respondents 1 and 2 have been impleaded falsely

with a view to maintain the writ petition as they are no way concerned with the transaction. The petitioner had purchased the tractor with the amount advanced by the third respondent-Society in the year 2001 and had hypothecated the tractor and trailer to it. But, from the year 2002 the petitioner had committed default and did not pay any single installment from that year and hence, the third respondent-Society is entitled to take re-possession of the tractor and trailer. It is stated that as on today, the petitioner is liable to pay an amount of Rs.3.50 lakhs to the third respondent-Society.

Even as per the own averments of the petitioner, he obtained a loan of Rs.2.00 lakhs from the third respondent-Society in the year 2001 which is repayable in nine yearly installments of Rs.60,000/-. If that be the case, the petitioner, by the time of filing the writ petition, should have paid an amount of Rs.2,40,000/- for the years 2002, 2003, 2004 and 2005. In that view of the matter, the petitioner is directed to approach the third respondent-Society seeking re-schedule of the loan payable by him and if the third respondent fails to consider the said request, he can raise a dispute under Section 61 of the A.P. Cooperative Societies Act, if so advised, before the appropriate forum.

With the above observation, the Writ Petition is dismissed at the admission stage. No costs.

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A. GOPAL REDDY, J

4th APRIL, 2006.
Tsr